

**Applicant:** Ozluturk et al.  
**Application No.:** 09/742,579

**REMARKS/ARGUMENTS**

After the foregoing Amendment, claims 11-19 are currently pending in this application. Claims 11 and 15-19 have been amended. A new set of formal drawings has been submitted herewith to address the Examiner's objection to the drawings.

A Substitute Specification is enclosed herein to replace the original specification included with the application when originally filed. The original specification has several errors found during the prosecution of other co-pending applications. Additionally, some of the figures in the formal drawings submitted herewith have been split into two figures (i.e., A and B), requiring that their description and reference thereto be corrected in the specification. Also enclosed is a marked-up version of the Substitute Specification which shows the changes made in the Substitute Specification by underlining added text and striking out deleted text. The Applicants submit that no new matter has been introduced into the application by the Substitute Specification.

**Entry of Second Preliminary Amendment**

In the Office Action Summary included with the Office Action mailed on December 14, 2004, it is indicated that the communications filed on December 21, 2000 and September 27, 2004 were received. No mention of a communication filed on October 15, 2001 was included in the Office Action Summary. The Examiner is respectfully requested to determine whether the Second Preliminary Amendment filed on October 15, 2001 has been entered.

**Objections to the Drawings**

The Examiner objected to the drawings because of handwritten captions and notations. Replacement sheets including Figures 1-80 have been submitted herewith. The withdrawal of the objection to the drawings is respectfully requested.

**Double Patenting Rejection**

Claims 11, 16 and 19 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,707,805. Claims 12 and 16 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 2 of U.S. Patent No. 6,707,805. Claims 13 and 17 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,707,805. Claims 14 and 18 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,707,805.

A Terminal Disclaimer is submitted herewith to overcome the judicially created doctrine of obviousness-type double patenting rejection. The withdrawal of the judicially created doctrine of obviousness-type double patenting rejection is respectfully requested.

**Claim Rejections - 35 USC §**

Claims 11, 15 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,267,262 (Wheatly, III) in view of U.S. Patent No. 5,101,501 (Gilhousen et al.).

Each of independent claims 11, 15 and 19 recites that a subscriber unit /means sends a first/SU spreading code to a base station/means on a status channel, a base station/means sends a second/BS spreading code to the subscriber unit/means on a checkup channel , and the subscriber unit/means transmits a message longer than the first/SU spreading code sent by the subscriber unit/means. Furthermore, each of claims 11, 15 and 19 recite that the subscriber unit/means increases its transmit power if the second/BS spreading code is not detected.

Neither of Wheatly, III and Gilhousen et al. teach or suggest the features described above. Furthermore, the Examiner does not even attempt to address the claimed status channel, checkup channel, length of the message transmitted by the subscriber unit/means or the two different spreading codes.

Claims 12-14 and 16-18 are dependent upon claim 11 and 15, which the Applicants believe are allowable over the cited prior art of record for the same reasons provided above.

Based on the arguments presented above, withdrawal of the 35 U.S.C. 103(a) rejection of claim 11-19 is respectfully requested.

### **Conclusion**

If the Examiner believes that any additional minor formal matters need to be addressed in order to place this application in condition for allowance, or that a telephone interview will help to materially advance the prosecution of this application, the Examiner is invited to contact the undersigned by telephone at the Examiner's convenience.

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In view of the foregoing amendment and remarks, Applicants respectfully submit that the present application, including claims 11 - 19, is in condition for allowance and a notice to that effect is respectfully requested.

Respectfully submitted,

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Enclosures